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In re Application of :
Leng et al. :
Application No. 10/785,535 :
Filed: February 23, 2004 :
Attorney Docket No. ALTRP113/A1350 :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition filed July 15, 2004, requesting that the above-identified application be accorded a filing date of February 23, 2004, rather than the presently accorded date of February 24, 2004. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on February 23, 2004 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 332826039 US showing a handwritten "date-in" of "February 24, 2004" as well as a "February 23, 2004" Berkeley CA USPS date stamp. The same Express Mail receipt number appears on the Certificate of Express Mailing dated February 23, 2004 on the original "Utility Patent Application Transmittal" for the instant application.

To further substantiate applicant's allegation that the application papers for this file were deposited on the requested filing date, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on February 23, 2004 at the Berkeley, CA USPS.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on February 23, 2004. Accordingly, the instant application is entitled to a filing date of February 23, 2004, and has been so accorded.

The petition is **GRANTED**.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of February 23, 2004, including mailing of a corrected filing receipt**. Thereafter, the matter will be referred to Technology Center 2811 for examination in due course.

Telephone inquiries concerning this matter may be directed Paralegal Liana Chase at (571) 272-3282.

Charles Steven Brantley
Petitions Attorney
Office of Petitions